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16 *Attorneys for Defendant*

17 UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

18 PAUL SAPAN,

19 Plaintiff,

20 v.

21 CARIBBEAN CRUISE LINE, INC.

22 Defendant.
23
24

Case No. 8:15-cv-01945-MWF-KESx

Hon. Karen E. Scott

STIPULATED PROTECTIVE ORDER

25 1. A. PURPOSES AND LIMITATIONS

26 Discovery in this action is likely to involve production of confidential,
27 proprietary, or private information for which special protection from public disclosure
28

1 and from use for any purpose other than prosecuting this litigation may be warranted.
2 Accordingly, the parties hereby stipulate to and petition the Court to enter the following
3 Stipulated Protective Order. The parties acknowledge that this Order does not confer
4 blanket protections on all disclosures or responses to discovery and that the protection it
5 affords from public disclosure and use extends only to the limited information or items
6 that are entitled to confidential treatment under the applicable legal principles. The
7 parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated
8 Protective Order does not entitle them to file confidential information under seal. Civil
9 Local Rule 79-5 sets forth the procedures that must be followed and the standards that
10 will be applied when a party seeks permission from the court to file material under seal.

11 **B. GOOD CAUSE STATEMENT**

12 This action is likely to involve trade secrets, terms of confidential agreements,
13 marketing research, development, commercial, financial, technical and/or proprietary
14 information for which special protection from public disclosure and from use for any
15 purpose other than prosecution of this action is warranted. Such confidential and
16 proprietary materials and information consist of, among other things, confidential
17 business or financial information, information regarding confidential business practices,
18 or other confidential research, development, or commercial information (including
19 information implicating privacy rights of third parties), information otherwise generally
20 unavailable to the public, or which may be privileged or otherwise protected from
21 disclosure under state or federal statutes, court rules, case decisions, or common law.
22 Accordingly, to expedite the flow of information, to facilitate the prompt resolution of
23 disputes over confidentiality of discovery materials, to adequately protect information
24 the parties are entitled to keep confidential, to ensure that the parties are permitted
25 reasonable necessary uses of such material in preparation for and in the conduct of trial,
26 to address their handling at the end of the litigation, and serve the ends of justice, a
27 protective order for such information is justified in this matter. It is the intent of the
28 parties that information will not be designated as confidential for tactical reasons and

1 that nothing be so designated without a good faith belief that it has been maintained in a
2 confidential, non-public manner, and there is good cause why it should not be part of the
3 public record of this case.

4 2. DEFINITIONS

5 2.1 Action: This action bearing the caption *Paul Sapan v. Caribbean Cruise*
6 *Line, Inc.*, No. 15-cv-01945-MWF-KES, in the United States District Court for the
7 Central District of California.

8 2.2 Challenging Party: a Party or Non-Party that challenges the designation of
9 information or items under this Order.

10 2.3 "CONFIDENTIAL" Information or Items: information (regardless of how
11 it is generated, stored or maintained) or tangible things that qualify for protection under
12 Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause
13 Statement.

14 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their
15 support staff).

16 2.5 Designating Party: a Party or Non-Party that designates information or
17 items that it produces in disclosures or in responses to discovery as "CONFIDENTIAL."

18 2.6 Disclosure or Discovery Material: all items or information, regardless of
19 the medium or manner in which it is generated, stored, or maintained (including, among
20 other things, testimony, transcripts, and tangible things), that are produced or generated
21 in disclosures or responses to discovery in this matter.

22 2.7 Expert: a person with specialized knowledge or experience in a matter
23 pertinent to the litigation who has been retained by a Party or its counsel to serve as an
24 expert witness or as a consultant in this Action.

25 2.8 House Counsel: attorneys who are employees of a party to this Action.
26 House Counsel does not include Outside Counsel of Record or any other outside
27 counsel.

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1 2.9 Non-Party: any natural person, partnership, corporation, association, or
2 other legal entity not named as a Party to this action.

3 2.10 Outside Counsel of Record: attorneys who are not employees of a party to
4 this Action but are retained to represent or advise a party to this Action and have
5 appeared in this Action on behalf of that party or are affiliated with a law firm which has
6 appeared on behalf of that party, and includes support staff.

7 2.11 Party: any party to this Action, including all of its officers, directors,
8 employees, consultants, retained experts, and Outside Counsel of Record (and their
9 support staffs).

10 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
11 Discovery Material in this Action.

12 2.13 Professional Vendors: persons or entities that provide litigation support
13 services (e.g., photocopying, videotaping, translating, preparing exhibits or
14 demonstrations, and organizing, storing, or retrieving data in any form or medium) and
15 their employees and subcontractors.

16 2.14 Protected Material: any Disclosure or Discovery Material that is designated
17 as "CONFIDENTIAL."

18 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material
19 from a Producing Party.

20 3. SCOPE

21 The protections conferred by this Stipulation and Order cover not only Protected
22 Material (as defined above), but also (1) any information copied or extracted from
23 Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected
24 Material; and (3) any testimony, conversations, or presentations by Parties or their
25 Counsel that might reveal Protected Material. Any use of Protected Material at trial
26 shall be governed by the orders of the trial judge. This Order does not govern the use of
27 Protected Material at trial

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1 4. DURATION

2 Even after final disposition of this litigation, the confidentiality obligations
3 imposed by this Order shall remain in effect until a Designating Party agrees otherwise
4 in writing or a court order otherwise directs. Final disposition shall be deemed to be the
5 later of (1) dismissal of all claims and defenses in this Action, with or without prejudice;
6 and (2) final judgment herein after the completion and exhaustion of all appeals,
7 rehearings, remands, trials, or reviews of this Action, including the time limits for filing
8 any motions or applications for extension of time pursuant to applicable law.

9 5. DESIGNATING PROTECTED MATERIAL

10 5.1 Exercise of Restraint and Care in Designating Material for Protection.

11 Each Party or Non-Party that designates information or items for protection under this
12 Order must take care to limit any such designation to specific material that qualifies
13 under the appropriate standards. The Designating Party must designate for protection
14 only those parts of material, documents, items, or oral or written communications that
15 qualify so that other portions of the material, documents, items, or communications for
16 which protection is not warranted are not swept unjustifiably within the ambit of this
17 Order. Mass, indiscriminate, or routinized designations are prohibited. Designations
18 that are shown to be clearly unjustified or that have been made for an improper purpose
19 (e.g., to unnecessarily encumber the case development process or to impose unnecessary
20 expenses and burdens on other parties) may expose the Designating Party to sanctions.
21 If it comes to a Designating Party's attention that information or items that it designated
22 for protection do not qualify for protection, that Designating Party must promptly notify
23 all other Parties that it is withdrawing the inapplicable designation.

24 5.2 Manner and Timing of Designations. Except as otherwise provided in this
25 Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or
26 ordered, Disclosure or Discovery Material that qualifies for protection under this Order
27 must be clearly so designated before the material is disclosed or produced. Designation
28 in conformity with this Order requires: (a) for information in documentary form (e.g.,

1 paper or electronic documents, but excluding transcripts of depositions or other pretrial
2 or trial proceedings), that the Producing Party affix at a minimum, the legend
3 “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that
4 contains protected material. If only a portion or portions of the material on a page
5 qualifies for protection, the Producing Party also must clearly identify the protected
6 portion(s) (e.g., by making appropriate markings in the margins). A Party or Non-Party
7 that makes original documents available for inspection need not designate them for
8 protection until after the inspecting Party has indicated which documents it would like
9 copied and produced. During the inspection and before the designation, all of the
10 material made available for inspection shall be deemed “CONFIDENTIAL.” After the
11 inspecting Party has identified the documents it wants copied and produced, the
12 Producing Party must determine which documents, or portions thereof, qualify for
13 protection under this Order. Then, before producing the specified documents, the
14 Producing Party must affix the “CONFIDENTIAL legend” to each page that contains
15 Protected Material. If only a portion or portions of the material on a page qualifies for
16 protection, the Producing Party also must clearly identify the protected portion(s) (e.g.,
17 by making appropriate markings in the margins). (b) for testimony given in depositions
18 that the Designating Party identify the Disclosure or Discovery Material on the record,
19 before the close of the deposition all protected testimony. (c) for information produced
20 in some form other than documentary and for any other tangible items, that the
21 Producing Party affix in a prominent place on the exterior of the container or containers
22 in which the information is stored the legend “CONFIDENTIAL.” If only a portion or
23 portions of the information warrants protection, the Producing Party, to the extent
24 practicable, shall identify the protected portion(s).

25 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
26 failure to designate qualified information or items does not, standing alone, waive the
27 Designating Party’s right to secure protection under this Order for such material. Upon
28 timely correction of a designation, the Receiving Party must make reasonable efforts to

1 assure that the material is treated in accordance with the provisions of this Order.

2 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

3 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
4 designation of confidentiality at any time that is consistent with the Court's Scheduling
5 Order.

6 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
7 resolution process under Local Rule 37.1 *et seq.*

8 6.3 The burden of persuasion in any such challenge proceeding shall be on the
9 Designating Party. Frivolous challenges, and those made for an improper purpose (e.g.,
10 to harass or impose unnecessary expenses and burdens on other parties) may expose the
11 Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn
12 the confidentiality designation, all parties shall continue to afford the material in
13 question the level of protection to which it is entitled under the Producing Party's
14 designation until the Court rules on the challenge.

15 7. ACCESS TO AND USE OF PROTECTED MATERIAL

16 7.1 Basic Principles. A Receiving Party may use Protected Material that is
17 disclosed or produced by another Party or by a Non-Party in connection with this Action
18 only for prosecuting, defending, or attempting to settle this Action, and shall not use
19 Protected Material for any other purpose, including any business purpose. Such
20 Protected Material may be disclosed only to the categories of persons and under the
21 conditions described in this Order. When the Action has been terminated, a Receiving
22 Party must comply with the provisions of section 13 below (FINAL DISPOSITION).
23 Protected Material must be stored and maintained by a Receiving Party at a location and
24 in a secure manner that ensures that access is limited to the persons authorized under this
25 Order.

26 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise
27 ordered by the court or permitted in writing by the Designating Party, a Receiving Party
28 may disclose any information or item designated "CONFIDENTIAL" only to:

1 (a) the Receiving Party's Outside Counsel of Record in this Action, as well as
2 employees of said Outside Counsel of Record to whom it is reasonably necessary to
3 disclose the information for this Action;

4 (b) the officers, directors, and employees (including House Counsel) of the
5 Receiving Party to whom disclosure is reasonably necessary for this Action;

6 (c) Experts (as defined in this Order) of the Receiving Party to whom
7 disclosure is reasonably necessary for this Action and who have signed the
8 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

9 (d) the court and its personnel;

10 (e) court reporters and their staff;

11 (f) professional jury or trial consultants, mock jurors, and Professional
12 Vendors to whom disclosure is reasonably necessary for this Action and who have
13 signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

14 (g) the author or recipient of a document containing the information or a
15 custodian or other person who otherwise possessed or knew the information;

16 (h) during their depositions, witnesses, and attorneys for witnesses, in the
17 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
18 requests that the witness sign the form attached as Exhibit A hereto; and (2) they will not
19 be permitted to keep any confidential information unless they sign the
20 "Acknowledgment and Agreement to Be Bound" (Exhibit A), unless otherwise agreed
21 by the Designating Party or ordered by the court. Pages of transcribed deposition
22 testimony or exhibits to depositions that reveal Protected Material may be separately
23 bound by the court reporter and may not be disclosed to anyone except as permitted
24 under this Stipulated Protective Order; and

25 (i) any mediator or settlement officer, and their supporting personnel,
26 mutually agreed upon by any of the parties engaged in settlement discussions.

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1 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
 2 OTHER LITIGATION

3 If a Party is served with a subpoena or a court order issued in other litigation that
 4 compels disclosure of any information or items designated in this Action as
 5 “CONFIDENTIAL,” that Party must:

6 (a) promptly notify in writing the Designating Party. Such notification shall
 7 include a copy of the subpoena or court order;

8 (b) promptly notify in writing the party who caused the subpoena or order to
 9 issue in the other litigation that some or all of the material covered by the subpoena or
 10 order is subject to this Protective Order. Such notification shall include a copy of this
 11 Stipulated Protective Order; and

12 (c) cooperate with respect to all reasonable procedures sought to be pursued
 13 by the Designating Party whose Protected Material may be affected.

14 If the Designating Party timely seeks a protective order, the Party served with the
 15 subpoena or court order shall not produce any information designated in this action as
 16 “CONFIDENTIAL” before a determination by the court from which the subpoena or
 17 order issued, unless the Party has obtained the Designating Party’s permission. The
 18 Designating Party shall bear the burden and expense of seeking protection in that court
 19 of its confidential material and nothing in these provisions should be construed as
 20 authorizing or encouraging a Receiving Party in this Action to disobey a lawful directive
 21 from another court.

22 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED
 23 IN THIS LITIGATION

24 (a) The terms of this Order are applicable to information produced by a Non-
 25 Party in this Action and designated as “CONFIDENTIAL.” Such information produced
 26 by Non-Parties in connection with this litigation is protected by the remedies and relief
 27 provided by this Order. Nothing in these provisions should be construed as prohibiting a
 28 Non-Party from seeking additional protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party's confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party's confidential information, then the Party shall:

(1) promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;

(2) promptly provide the Non-Party with a copy of the Stipulated Protective Order in this Action, the relevant discovery request(s), and a reasonably specific description of the information requested; and

(3) make the information requested available for inspection by the Non-Party, if requested.

(c) If the Non-Party fails to seek a protective order from this court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the "Acknowledgment and Agreement to Be Bound"

1 that is attached hereto as Exhibit A.

2 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
3 PROTECTED MATERIAL

4 When a Producing Party gives notice to Receiving Parties that certain
5 inadvertently produced material is subject to a claim of privilege or other protection, the
6 obligations of the Receiving Parties are those set forth in Federal Rule of Civil
7 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
8 may be established in an e-discovery order that provides for production without prior
9 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
10 parties reach an agreement on the effect of disclosure of a communication or information
11 covered by the attorney-client privilege or work product protection, the parties may
12 incorporate their agreement in the stipulated protective order submitted to the court.

13 12. MISCELLANEOUS

14 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
15 person to seek its modification by the Court in the future.

16 12.2 Right to Assert Other Objections. By stipulating to the entry of this
17 Protective Order no Party waives any right it otherwise would have to object to
18 disclosing or producing any information or item on any ground not addressed in this
19 Stipulated Protective Order. Similarly, no Party waives any right to object on any
20 ground to use in evidence of any of the material covered by this Protective Order.

21 12.3 Filing Protected Material. A Party that seeks to file under seal any
22 Protected Material must comply with Civil Local Rule 79-5. Protected Material may
23 only be filed under seal pursuant to a court order authorizing the sealing of the specific
24 Protected Material at issue. If a Party's request to file Protected Material under seal is
25 denied by the court, then the Receiving Party may file the information in the public
26 record unless otherwise instructed by the court.

27 13. FINAL DISPOSITION

28 After the final disposition of this Action, as defined in paragraph 4, within 60

1 days of a written request by the Designating Party, each Receiving Party must return all
 2 Protected Material to the Producing Party or destroy such material. As used in this
 3 subdivision, "all Protected Material" includes all copies, abstracts, compilations,
 4 summaries, and any other format reproducing or capturing any of the Protected Material.
 5 Whether the Protected Material is returned or destroyed, the Receiving Party must
 6 submit a written certification to the Producing Party (and, if not the same person or
 7 entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category,
 8 where appropriate) all the Protected Material that was returned or destroyed and (2)
 9 affirms that the Receiving Party has not retained any copies, abstracts, compilations,
 10 summaries or any other format reproducing or capturing any of the Protected Material.
 11 Notwithstanding this provision, Counsel are entitled to retain an archival copy of all
 12 pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda,
 13 correspondence, deposition and trial exhibits, expert reports, attorney work product, and
 14 consultant and expert work product, even if such materials contain Protected Material.
 15 Any such archival copies that contain or constitute Protected Material remain subject to
 16 this Protective Order as set forth in Section 4 (DURATION).

17 14. Any violation of this Order may be punished by any and all appropriate
 18 measures including, without limitation, contempt proceedings and/or monetary
 19 sanctions.

20
 21 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

22
 23 Dated: December 30, 2016

24 PRATO & REICHMAN, APC

GREENSPOON MARDER, P.A.

25
 26 By: /s/ Christopher J. Reichman

By: /s/ Roy Taub

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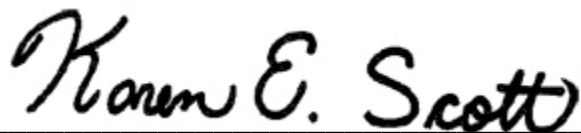
11 714-544-3291

12 Fax: 714-276-6110

13 *Attorneys for Defendant*
14 *Caribbean Cruise Line, Inc.*

15 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.
16

17
18 DATED: January 04, 2017
19



20 Hon. Karen E. Scott
21 United States Magistrate Judge
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28

EXHIBIT AACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
 _____ [print or type full address], declare
 under penalty of perjury that I have read in its entirety and understand the Stipulated
 Protective Order that was issued by the United States District Court for the Central
 District of California in the case of *Paul Sapan v. Caribbean Cruise Line, Inc.*, No. 15-
 cv-01945-MWF-KES. I agree to comply with and to be bound by all the terms of this
 Stipulated Protective Order and I understand and acknowledge that failure to so comply
 could expose me to sanctions and punishment in the nature of contempt. I solemnly
 promise that I will not disclose in any manner any information or item that is subject to
 this Stipulated Protective Order to any person or entity except in strict compliance with
 the provisions of this Order. I further agree to submit to the jurisdiction of the United
 States District Court for the Central District of California for the purpose of enforcing
 the terms of this Stipulated Protective Order, even if such enforcement proceedings
 occur after termination of this action. I hereby appoint
 _____ [print or type full name] of
 _____ [print or type full address and
 telephone number] as my California agent for service of process in connection with this
 action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____